



Research paper

Cannabis clubs in Uruguay: The challenges of regulation

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ABSTRACT

Background: The Uruguayan Cannabis Clubs (UCCs) constitute one of three ways to obtain cannabis under the new cannabis regulation laws. These organizations, formed by up to 45 adults and with a legal limit to grow up to 99 plants, appear to provide a safe method of procuring cannabis in a country that is trying to regulate aspects of cannabis production and distribution. This article describes the operations of the UCCs and the challenges these organizations face.

Methods: The paper draws on data from in-depth interviews conducted with representatives of UCCs and conversations with government officials conducted between March and August of 2015. We collected information about membership, facilities and forms of organization, methods of cannabis cultivation and distribution, and activities within the community.

Results: This article describes how UCCs are formed, their resources, rules for cannabis production and distribution; and their relationships with government institutions and the community. Data show that UCCs face four main challenges: compliance with the extant regulation, financial sustainability, tolerance from the community, and collective action dilemmas.

Conclusions: Organizational challenges are as frequent in Uruguay as in other country where cannabis clubs exist, however this paper shows that in order to be sustainable, UCCs need to address issues of collective action, financial sustainability, and possible competition with cannabis distribution via pharmacies that could diminish membership. In the case of Uruguay, UCCs are part of a regulation effort, though they may not be preferred over other legal alternatives already in place.

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Background

Cannabis clubs constitute one of three ways in which the new Uruguayan law (Law 19,172) regulates production, distribution and consumption of cannabis and allows nationals to obtain cannabis. Other modes of access include self-cultivation and purchasing cannabis at pharmacies. Currently, these three methods are mutually exclusive and individuals must choose one legal way to obtain cannabis, and register with the Uruguayan IRCCA (Instituto de Regulación y Control del Cannabis). Sales through pharmacies are yet to be implemented, hence users can obtain legal cannabis either as cannabis club members or as registered home producers.

The Uruguayan experience is unique because this is the first time that cannabis social clubs (CSCs) have operated in a post-cannabis regulation regime; all other examples have operated in pre regulated

regimes. Cannabis can be acquired through CSCs where cannabis production is illegal (Bewley-Taylor, Blickman, & Jelsma, 2014; Caulkins, Hawken, Kilmer, & Kleiman, 2016; Decorte, 2015; Parés Franquero & Bouso Saiz, 2015). However when other legal options are available, CSCs might not be the preferred mode of acquisition. Uruguay provides a unique pilot site for this to be tested.

CSCs are considered legal private organizations of adult users who cultivate cannabis collectively for their own consumption, with no motivation for profit (Barriuso, 2011; Decorte, 2015; Kilmer, Kruithof, Pardal, Caulkins, & Rubin, 2013; Parés Franquero & Bouso Saiz, 2015; Room, Fischer, Hall, Lenton, & Reuter, 2010).

Governments allow CSCs through decriminalization policies, court rulings, legal black holes or simply by lack of enforcement of prevailing drug laws (Bewley-Taylor et al., 2014; Decorte, 2010; Decorte, Potter, & Bouchard, 2011; Potter, 2010). When consumption is legal but production remains illegal, CSCs are considered an efficient way to undermine the power of black markets. Cannabis producers organize themselves in informal networks to maximize their production, and avoid buying cannabis from dealers (Decorte, 2015).

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CSCs exist in Argentina, Colombia, Chile, and several European countries such as Spain, Belgium, United Kingdom, France, Slovenia, Italy, the Netherlands and Switzerland (Bewley-Taylor et al., 2014; Decorte, 2015). In Canada, a particular form of club, named “compassion clubs” has been developed for patients who use medical cannabis (Capler, 2010; Feldman & Mandel, 1998; Hathaway & Rossiter, 2007).

Their organizational structure and expansion mostly depends on the cannabis regulations in place in each country. The most widely known experience is “The Spanish Model,” which was initiated in the early 1990s (Parés Franquero & Bouso Saiz, 2015) and has expanded in the regions of Catalonia and the Basque country. Although CSCs are widespread in Spain, with more than 900 groups established across the country, there is still uncertainty regarding their legal status (Arana & Sanchez, 2011; Kilmer et al., 2013). As of 2015, CSC clubs in Catalonia are frequently inspected, suspended, or even closed down by city officials.

In countries where production, commercialization and consumption of cannabis are not entirely legal, CSCs offer several advantages. Clubs can control the quality of the product, create jobs, and reduce risky consumption (Caulkins et al., 2016). A possible caveat, however, is that CSCs could be used as a cover for profit-driven business operations.

In Uruguay, CSCs are a novelty and did not exist in pre-cannabis regulation times. Furthermore, the first draft of the regulation did not take CSCs into account. Uruguayan activists connected with the ENCOD network (European Coalition for Just and Effective Drug Policies) and international activists pushed for their incorporation (La diaria, 2012) in Law 19,172. The legal context in which CSCs operate in Uruguay is safer than other contexts. While in other countries CSCs function in a grey legal zone, in Uruguay they are one of the legal ways to obtain cannabis under the new regulation. It can be said that this collective approach is appealing to consumers because it contends with two other forms of cannabis procurement: pharmacies and home cultivation.

Contrary to contexts with limited or non-existent cannabis regulation such as Spain, where CSCs became widespread because they were able to operate in a grey zone, membership of Uruguayan Cannabis Clubs (UCCs) is the least preferred option among frequent consumers. In Uruguay consumers can choose from three legal options for acquiring marihuana, but in Spain CSCs are the only legal option. The situation in Belgium has similarities with the Uruguayan case. While CSCs in Belgium operate in a non-regulated cannabis market and are prone to intervention by law enforcement as in Spain, they have not become widespread because consumers can cross the border and buy legal marihuana in Netherlands’ coffee shops.¹ In other words, unlike the Spanish, Belgians and Uruguayans have alternatives to CSCs to buy legal marihuana.

According to a recent survey of frequent consumers in Montevideo, of those users who consume cannabis at least weekly and plan to become registered consumers, only 13% expressed their intention to become a member of a CSC; the rest either plan to buy cannabis at pharmacies (56%)² or grow their own plants at home (30%)³ (Boidi, Queirolo, & Cruz, 2016). It is unsurprising that

CSCs are the least preferred option in a country where cannabis is legal and there are alternative sources of supply. Based on interviews with club members and authorities, this paper describes the initial functioning of CSC in Uruguay and points out the personal motivations for opening a cannabis club, perceived advantages, as well as problems faced by these organizations.

Because there is no previous study of Uruguayan CSCs, this is an exploratory research project and intends to serve as a baseline for future work. The Uruguayan experience with CSCs is a special case due to the regulated context and, as a result, the description we present can help the academic community and policy makers in Uruguay and elsewhere to evaluate the CSC alternative in regimes where cannabis is highly regulated.

Regulation of cannabis clubs

To form a legal cannabis club in Uruguay, members have to fulfill three bureaucratic requirements. First, they need to get approval to run a non-profit organization (making it explicit that its sole purpose is to cultivate and distribute cannabis among its members). Secondly, they must register with the Ministry of Education and Culture. Thirdly, once the members get approval, their newly-formed organization must register with the IRCCA (IRCCA, 2014).

In order to complete the first step, approval to run non-profit organization, they need to comply with a number of legal requirements: they must show evidence of a foundational board of at least 15 original members and obtain the seal of a certified public notary. Officers of the organization must be appointed from these 15 members and include a board with a President, Secretary and Treasurer plus three alternates as well as an Auditing Committee which includes all the above.

After registering as a non-profit with the Ministry, the club needs to register with the IRCCA. This procedure requires the club founder to set an appointment with the Support Office of the Uruguayan Postal Service to begin the registration process.⁴ The authorized representatives for the registration process are the regular board members who must identify themselves at the time of registration. The Uruguayan Postal Service official will digitalize the club’s information as well as the founders’ personal data according to the requirements set down by the IRCCA. The information collected in the IRCCA form includes address and contact details, basic crop information, Technical Manager’s personal data, and opening hours. Club authorities must present the articles of incorporation and the founding charter of the club, along with the founding members’ personal data. This information is considered sensitive, and once entered, will only be accessible to IRCCA staff.

At the time of registration, the club must submit a list of documents, including notarized and duly approved bylaws that are also authorized by the Ministry of Education and Culture; notarized copy of the minutes listing all personal data of the founding members of the club; date of birth and proof of address of each founding member; and proof of address or utility bill on behalf of the non-profit organization; documents certifying ownership, lease, possession or any other title by which the non-profit organization is authorized to be headquartered at the property where the crop is to be grown. Additionally, the government requires a Crop Plan describing technical and security

¹ We thank one of the anonymous reviewers for making the point on the importance of activists for the inclusion of CSC in the Uruguayan regulation. Also, one reviewer explained to us how coffee shops in the Netherlands attract consumers from Belgium and might be part of the explanation that CSC have not become more widespread.

² Buying at pharmacies is not available as of January 2016. The government has carried out a public bid and decided which companies will produce cannabis, but it will take several months to have the marihuana at the pharmacies.

³ This preference distribution comes from a Respondent Driven Sample (RDS) study of frequent marijuana consumers (consume at least once a week) of age 18 or more, who live in the Montevideo metropolitan area. The study surveyed 294 individuals. Data collection took place during November and December 2014.

⁴ The Postal Service has been chosen by the Uruguayan authorities as the institution to register all cannabis users because of its presence throughout the country. Individual growers register there, as do members of UCCs, through the club authorities. It is expected that once the sales through pharmacies mechanisms is in place, consumers will also have to register at the Post offices.

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